THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 5924 of 2002

O r d e r:

The petitioner is a Driver with the respondents-APSRTC. On the ground that he committed a fatal accident on 27.10.1999, in which a 19 year old cyclist died, he was removed from service vide orders dated 23.03.2001 of the Depot Manager, Mehdipatnam. The appeal preferred by the petitioner thereagainst, was dismissed by the Divisional Manager, Charminar Division, vide orders dated 15.05.2001. Assailing the said order, the petitioner filed revision petition before respondent No.2, namely, the Regional Manager, Hyderabad City Region, who by order dated 26.11.2001, set aside the order of the Depot Manager, as confirmed by the Divisional Manager, and ordered reinstatement of the petitioner imposing certain conditions. The petitioner assailing the order of respondent No.2, insofar as it imposes condition Nos. 1 and 3, has filed this writ petition.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-APSRTC.

It is the contention of the petitioner that no opportunity whatsoever was given to the petitioner at the time of conducting enquiry and the enquiry was conducted *ex parte*. I am afraid,

I cannot accept this contention of the petitioner, for it is the specific case of the respondents, as is evident from the counter that despite the Enquiry Officer sending letters dated 02.01.2001, 12.01.2001 and 27.01.2001 calling upon the petitioner to attend the enquiry on 09.01.2001, 25.01.2001 and 06.02.2001 respectively, the petitioner did not turn up for enquiry, and it is in those circumstances, the Enquiry Officer concluded the enquiry and submitted his report. The petitioner having failed to respond to the notices to attend for the enquiry, and having failed to attend for the enquiry, cannot be allowed to contend that no opportunity was given and that the enquiry was conducted *ex parte*.

The learned counsel for the petitioner contends that inasmuch as the

petitioner was acquitted by the Criminal Court of the charges leveled against him, he was entitled to be reinstated into service with all consequential benefits, and respondent No.2 having set aside the order of removal passed by the Depot Manager, as confirmed by the Divisional Manager, committed an error in imposing conditions, particularly condition Nos. 1 and 3, while ordering his reinstatement into service, which has the effect of postponing his annual increments for a period of two years and denying him the benefit of PF, gratuity, leave, increment, promotion, seniority etc., for the period between the date of his removal and the date of his reinstatement into service.

Though the petitioner was acquitted by the Criminal Court of the charges leveled against him, the fact remains he was acquitted by the Criminal Court, as there was foolproof evidence to connect him to the accident. The petitioner, admittedly, did not attend the departmental enquiry. In those circumstances, as stated supra, *ex parte* report came to be submitted. In the enquiry, the charges leveled against the petitioner, stood proved. One of the charge proved against the petitioner in the enquiry was that he failed to take precautions to avert the accident, and thereby contributed to the accident. Taking into consideration the fact that both the victim and the petitioner contributed to the accident, respondent No.2 feeling that the punishment of removal is harsh and excessive, modified the punishment imposed on the petitioner from that of removal from service to that of reinstatement into service with certain conditions. Though respondent No.2 had set aside the order of removal passed by the Depot Manager, as confirmed by the Divisional Manager, the fact remains, respondent No.2 did not disturb the findings arrived at by the Enquiry Officer, thereby indicating that he had not interfered with the findings arrived at by the Enquiry Officer in the enquiry. Had respondent No.2, set aside the findings arrived at by the Enquiry Officer, in the departmental enquiry, and ordered reinstatement of the petitioner into service, then the petitioner would have been justified in contending that the imposition of condition Nos. 1 and 3, which have the effect of postponing his annual increment for a period of two years and denying him the benefit of PF, gratuity, leave, increment, promotion, seniority etc., are bad, but that is not the not the case on hand, respondent No.2 without disturbing the findings of the departmental enquiry, and without interfering with the enquiry report, had ordered reinstatement of the petitioner into service keeping in view the fact that victim also contributed to the accident, and for the contributory negligence of the petitioner, imposed a lesser punishment, as couched in condition Nos. 1 and 3 of the

order of reinstatement.

The conditions imposed by respondent No.2, particularly condition Nos. 1 and 3, in the order of reinstatement, being as a measure of punishment for the contributory negligence of the petitioner, which in fact, is less harsh than that of removal from service, does not call interference at the hands of this Court, and more so having regard to the judgment of the apex Court in **V. Ramana v. A.P.S.R.T.C.**, wherein it has been held that punishment imposed by the disciplinary authority, can be interfered only when the administrator's decision is found to be illogical or suffers from procedural impropriety or was shocking to the conscience of the Court or is defiance to the moral standards.

For the foregoing reasons, there is no merit in the writ petition, and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 13th April, 2006.

KSR